FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4377 OF 2005

Office notes, office Memoranda of Coram, appearances, Court's orders or directions & Registrar's orders.	Court's or Judge's Orders

Mr. G.V. Dange for petitioner

Mr. A.P. Vanarse for R-2

Respondents 1,3 to 6 are served.

CORAM: SMT. RANJANA DESAI, J.
16/9/2005

P.C.:-

The petitioner has challenged order dated 23//6/05 passed by the Civil Judge,Senior Division, Pune, whereby the application filed by the petitioner for impleading her as a party in Regular Civil Suit No. 1989 of 2004 is rejected.

2. I have heard the learned counsel for the petitioner. He pointed out that respondent 1 who is the plaintiff has filed the instant suit against respondents 2 and 3 who are defendants 1 and 2 respectively restraining them from commissioning

transformer which is installed in the property developed and constructed by respondent 2.

3. It is the case of the petitioner that she is the owner and in possession of a large portion of the property which is developed by respondent 2. According to the petitioner any order passed in this suit is likely to affect her. If the transformer is not commissioned the petitioner will not get electricity. It is, therefore, that the application came to be filed praying that she may be impleaded in the suit along with four others. The trial court has rejected the application holding that the plaintiffs are not claiming any relief against the petitioner and that the petitioner has purchased the flat from respondent 1 and it is the duty of the builder to provide electricity and water supply to them without causing nuisance and without interfering with the legal rights of the tenants.

4. I have also heard the learned counsel for respondent 2. He contended that no case is made out for interfering with the impugned order. He submitted that the learned Judge is right when he observes that the plaintiffs are not claiming any relief against the petitioner and since it is the builder’s responsibility to provide electricity, it is not necessary that the petitioner should be impleaded in this suit.

5. In my opinion, the impugned order deserves to be set aside. It is the case of the petitioner that she is in possession of the property which is developed by respondent 2. The suit is filed praying that respondents 2 and 3 be restrained from commissioning the transformer. Any adverse order passed in the suit is likely to affect the petitioner in as much as the petitioner will not get electricity from Maharashtra State Electricity Board ("MSEB" for short), defendant 2. Electricity is an essential amenity which must be made available to the

petitioner, if she is legally entitled to it. Since petitioner is awaiting the power connection from MSEB through the said transformer, she has prima facie a direct interest in the subject matter of the suit. Besides, if the petitioner is added to the suit it will prevent multiplicity of proceedings.

6. In the circumstances the impugned order is set aside. The petitioner’s application Exhibit 33 is granted only to the extent it concerns her.

7. Petition is disposed of.

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